

1 Andrew T. Ryan, Esq. (SBN 227700)
2 THE RYAN LAW GROUP
3 317 Rosecrans Ave.
4 Manhattan Beach, CA 90266
5 Tel: (310) 321-4800
6 Fax: (310) 496-1435
7 Andrew.ryan@theryanlawgroup.com

8 Attorneys for Plaintiffs

9
10
11
12
13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
15
16 WESTERN DIVISION

17 MICHAEL MOLLOY, on behalf of
18 himself and those similarly situated,

19 Plaintiffs,

20 v.

21 TRIWIN INC., a foreign corporation,
22 and TRIWIN GAMES CO., LTD., a
23 foreign corporation,

24 Defendant.

25 Case No.

26 **CLASS ACTION COMPLAINT**

- 1 **Violation of California's Unfair
2 Competition Law ("UCL")**
- 3 **Violation of California False
4 Advertising Law ("FAL")**
- 5 **Violation of the California
6 Consumer Legal Remedies Act
7 ("CLRA")**
- 8 **Fraud**
- 9 **Negligent Misrepresentation**

28 **DEMAND FOR JURY TRIAL**

1 Michael Molloy (“Mr. Molloy”), a citizen of Los Angeles County, hereby
 2 brings this Complaint on behalf of himself and those similarly situated against
 3 Defendant Triwin Inc., a foreign corporation registered in the Cayman Islands and
 4 Triwin Games Co. Ltd., a foreign corporation registered in Hong Kong
 5 (collectively “Defendants”). Plaintiff alleges as follows:

6 **INTRODUCTION**

7 1. Defendants develop, distribute, and operate the mobile game Tycoon
 8 Casino (“Game”) that competes in the so-called “social casino” market.

9 2. The Game provides users with virtual slot machines that are played
 10 with virtual gold coins. Users bet the coins and win or lose those coins based on
 11 the randomized outcomes of the Game’s slot machines.

12 3. When users run out of coins – a highly likely outcome – users are
 13 unable to continue playing the Game’s slot machines. At that time, the Game
 14 presents users with prompts encouraging them to purchase more virtual coins in
 15 exchange for real world money to continue their gameplay. The shop where users
 16 are directed to purchase more coins purports to offer significant sales and discounts
 17 for the purchase of virtual coins with misleading coin quantity comparisons.

18 4. The Ninth Circuit has held that earlier versions of Big Fish Casino, a
 19 mobile game that also offers virtual slot machines, “constitutes illegal gambling
 20 under Washington law.” *Kater v. Churchill Downs Inc.*, 886 F.3d 784, 785 (9th
 21 Cir. 2018). The Game here likewise constitutes illegal gambling under California
 22 law.

23 5. This lawsuit is brought on behalf of Plaintiff and those similarly
 24 situated who have had their money taken from the Game’s illegal slot machines
 25 and who have been deceived into making in-game purchases of deceptively
 26 marketed coins in the Game.

27 6. Defendants develop and publish the Game, which is playable on

1 various platforms, including iPhone and Android devices.

2 7. On information and belief, the Games are distributed under developer
3 agreements with Apple Inc. (“Apple”) and Google, LLC (“Google”).

4 8. On information and belief, Apple and Google are entities
5 headquartered in California.

6 9. The Game can be downloaded for free from the Apple App Store and
7 Google Play store. The Game’s simulated slot machines are akin to those found in
8 real world casinos. The Game gives new players an initial balance of virtual coins
9 allowing access to gameplay.

10 10. After consumers lose their initial allotment of coins, the Game
11 attempts to sell those consumers additional coins. Without additional coins,
12 consumers cannot play the Game’s slot machines.

13 11. Freshly topped off with additional coins, consumers wager to win
14 more coins in the Game’s slot machines. The coins won by consumers playing the
15 Game’s slot machines are identical to the coins that are sold in the Game.

16 12. The function of the Game’s coins is to place bets in the Game’s slot
17 machines to access those games of chance and extend players’ ability to play those
18 slot machines.

19 13. On information and belief, despite purporting to be a free-to-play
20 Game, Defendants reap massive profits by selling “in-app” bundles of virtual
21 coins. Players of the Game make these in-app purchases for the purpose of being
22 able to continue playing the Game’s slot machines when they lose their coins to
23 those games of chance.

24 14. In addition to the addictive nature of the slot machines themselves, in
25 order to induce users to make in-game purchases, in its marketing to consumers at
26 the time of purchase, the Game advertises sale deals for virtual coins that are false
27 and misleading. Specifically, the Game’s store provides comparisons to fictitious

1 coin quantities for coin bundles.

2 **The Game Provides Illegal Slot Machines Under California Law**

3 15. By making, operating, giving away and entering into agreements
4 related to the Game, Defendants have violated California's gambling laws,
5 including the law prohibiting slot machines. In so doing, Defendants have illegally
6 profited from thousands of consumers.

7 16. California Penal Code §330b prohibits slot machines. Subsection (a)
8 states that “[i]t is unlawful for any person to manufacture, repair, own, store,
9 possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for
10 sale or lease...any slot machine or device, as defined in this section.” Cal. PEN
11 §330b(a).

12 17. Defendants manufacture, repair, own, rent, lease or give away the
13 Game and its slot machines.

14 18. California Penal Code §330b(a) further provides that “[i]t is unlawful
15 for any person to make or to permit the making of an agreement with another
16 person regarding any slot machine or device, by which the user of the slot machine
17 or device, as a result of the element of hazard or chance or other unpredictable
18 outcome, may become entitled to receive money, credit, allowance, or other thing
19 of value or additional chance or right to use the slot machine or device, or to
20 receive any check, slug, token, or memorandum entitling the holder to receive
21 money, credit, allowance, or other thing of value.”

22 19. On information and belief, Defendants made or permitted the making
23 of agreements with others regarding the Game, including with Apple, Google and
24 players of the Game.

25 20. Users of the Game, as a result of the element of chance, may become
26 entitled to receive virtual coins, which are a credit, allowance or other thing of
27 value or an additional chance or right to use the Game's slot machines.

1 Specifically, players of the Game's slot machines receive virtual coins that provide
2 players with the additional chance or right to continue playing slot machines in the
3 Game. The slot machines in the Game are purely games of chance and involve no
4 skill from the players.

5 21. California Penal Code 330b(d) provides: "For purposes of this section,
6 'slot machine or device' means a machine, apparatus, or device that is adapted, or
7 may readily be converted, for use in a way that, as a result of the insertion of any
8 piece of money or coin or other object, or by any other means, the machine or
9 device is caused to operate or may be operated, and by reason of any element of
10 hazard or chance or of other outcome of operation unpredictable by him or her, the
11 user may receive or become entitled to receive any piece of money, credit,
12 allowance, or thing of value, or additional chance or right to use the slot machine
13 or device..."

14 22. The Game falls within the definition of slot machine or device under
15 section 330b(d). Users exchange real money for virtual coins in the Game. The
16 Game's slot machines are games of chance in which the user may receive or lose
17 additional virtual coins. Virtual coins are a thing of value or an additional chance
18 to use the slot machines in the Game.

19 23. The Ninth Circuit has found that virtual coins similar to those in the
20 Game constitute a thing of value under Washington's gambling law: "The virtual
21 coins, as alleged in the complaint, permit a user to play the casino Game inside the
22 virtual Big Fish Casino. They are a credit that allows a user to place another wager
23 or re-spin a slot machine. Without virtual coins, a user is unable to play Big Fish
24 Casino's various Game. Thus, if a user runs out of virtual coins and wants to
25 continue playing Big Fish Casino, she must buy more coins to have the privilege of
26 playing the game. Likewise, if a user wins coins, the user wins the privilege of
27 playing Big Fish Casino without charge. In sum, these virtual coins extend the
28

1 privilege of playing Big Fish Casino.” *Kater v. Churchill Downs Inc.*, 886 F.3d
2 784, 787 (9th Cir. 2018). The same is true for the Game here.

3 **The Game Engages in False and Misleading Advertising**

4 24. The Game presents false and misleading advertising to induce players
5 into spending money within the Game.

6 25. The Game’s store where users purchase virtual coins are misleading
7 by offering for sale a particular coin quantity for a listed price with a comparison to
8 a lower stricken coin quantity. Consumers reasonably understand the stricken coin
9 quantity in these advertisements to represent the ordinary or prevailing deal for
10 coins offered to users of the Game on a regular basis for a reasonably substantial
11 period of time.

12 26. The stricken coin quantities presented to new users are fictitiously low
13 and do not represent the ordinary or prevailing deal offered to other users of the
14 Game on a regular basis.

15 27. In so doing, the Game misleads consumers, particularly new players
16 to the Games, into believing that the offered sales were providing an outsized value
17 as compared to the ordinary or prevailing deal offered by the Game. This false
18 belief was a material consideration for consumers to make in-game purchases and
19 consumers reasonably relied on that belief in their purchase decision.

20 28. The Federal Trade Commission (“FTC”) describes various forms of
21 false price comparison schemes as deceptive: “One of the most commonly used
22 forms of bargain advertising is to offer a reduction from the advertiser’s own
23 former price for an article. If the former price is the actual, bona fide price at which
24 the article was offered to the public on a regular basis for a reasonably substantial
25 period of time, it provides a legitimate basis for the advertising of a price
26 comparison. Where the former price is genuine, the bargain being advertised is a
27 true one. If, on the other hand, the former price being advertised is not bona fide
28

1 but fictitious - for example, where an artificial, inflated price was established for
 2 the purpose of enabling the subsequent offer of a large reduction - the ‘bargain’
 3 being advertised is a false one; the purchaser is not receiving the unusual value he
 4 expects.” 16 CFR §233.1(a). “The advertiser should be especially careful,
 5 however, in such a case, that the price is one at which the product was openly and
 6 actively offered for sale, for a reasonably substantial period of time, in the recent,
 7 regular course of his business, honestly and in good faith - and, of course, not for
 8 the purpose of establishing a fictitious higher price on which a deceptive
 9 comparison might be based.” 16 CFR §233.1(b). “Other illustrations of fictitious
 10 price comparisons could be given. An advertiser might use a price at which he
 11 never offered the article at all; he might feature a price which was not used in the
 12 regular course of business, or which was not used in the recent past but at some
 13 remote period in the past, without making disclosure of that fact; he might use a
 14 price that was not openly offered to the public, or that was not maintained for a
 15 reasonable length of time, but was immediately reduced. 16 CFR §233.1(d).

16 29. California statutory and regulatory law also expressly forbids false
 17 discounted pricing schemes: “No price shall be advertised as a former price of any
 18 advertised thing, unless the alleged former price was the prevailing market price as
 19 above defined within three months next immediately preceding the publication of
 20 the advertisement or unless the date when the alleged former price did prevail is
 21 clearly, exactly and conspicuously stated in the advertisement.” Cal. Bus. & Prof.
 22 Code §17501. Section 17501 defines “prevailing market price” as “the worth or
 23 value of any thing advertised...at the time of publication of such advertisement in
 24 the locality wherein the advertisement is published.”

25 30. Defendants have control and knowledge over the pricing and
 26 advertisement of coins in the Game and therefore knew, or should reasonably have
 27 known, that its comparative coin quantity advertising and statements regarding sale

1 duration were false, deceptive, misleading, and unlawful.

2 31. Defendants fraudulently concealed from and intentionally failed to
3 disclose to consumers the truth about its advertised discounts and purported limited
4 time sales.

5 32. Through this false and deceptive marketing, advertising, and pricing
6 scheme, Defendants violated California law prohibiting the advertisement of goods
7 for sale as discounted from false former prices and prohibiting misleading
8 statements about the existence and amount of price reductions.

9 PARTIES

10 33. Plaintiff Michael Molloy is a citizen and resident of Los Angeles
11 County, California. He downloaded the Game on his iPhone from the Apple App
12 Store in Los Angeles County. He played the Game in this County. He accessed the
13 Game's virtual store and saw its false advertising in this County. He was induced
14 by this false advertising into making an in-game purchase in this County from the
15 in-game store. He made a purchase from the Game through his Apple iPhone and
16 Apple payment account.

17 34. On information and belief, Triwin Inc. is a corporation organized and
18 existing under the laws of the Cayman Islands. On information and belief, Triwin
19 Inc.'s principal place of business is located at F23 2307, T2 Foresea Life Center,
20 Xin'an Street, Bao'an District, Shenzhen, China.

22 35. On information and belief, Triwin Games Co., Ltd. is a corporation
23 organized and existing under the laws of Hong Kong. On information and belief,
24 Triwin Games Co. Ltd.'s principal place of business is Rm.4B, Kingswell Comm
25 Tower, 171-173 Lockhart Rd., Wanchai, Hong Kong.

26 36. Upon information and belief and at all times relevant to this
27 Complaint, Triwin Inc. and Triwin Games Co. Ltd. operated as one company to
28 market and sell the Game throughout the U.S., including California.

37. Upon information and belief and at all times relevant to this Complaint: Triwin Inc. and Triwin Games Co., Ltd. were agents, servants, employees, co-conspirator, partners, joint venturers, and/or alter ego of each other, and were at all times acting within the course and scope of said agency, service, employment, conspiracy, partnership and/or joint venture.

38. Upon information and belief and at all times relevant to this Complaint, Defendants aided and abetted, encouraged and rendered substantial assistance in accomplishing the wrongful conduct and their wrongful goals and other wrongdoing complained of herein. In taking action, as particularized herein, to aid and abet and substantially assist the commission of these wrongful acts and other wrongdoings complained of, Defendants acted with an awareness of their primary wrongdoing and realized that its conduct would substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

JURISDICTION AND VENUE

39. This Court has jurisdiction over this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §1332(d)(2), this Court has original jurisdiction because the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs, and at least one of the members of the proposed classes is a citizen of a different state than Defendants.

40. This Court has personal jurisdiction over Defendants, because each conducts substantial business and directs its activities into California and this District, including activities that form the basis for the claims here, and a substantial part of the acts and omissions complained of occurred in this District.

41. Plaintiff further alleges, upon information and belief, that the claims asserted in this complaint arise out of or are related to Defendants' professional and commercial activities within California, and therefore the Defendants are subject to the specific jurisdiction of the courts of this state. Specifically,

1 Defendants publish, advertise, distribute and profit from the Game and directs
2 activities for this Game through California entities, including Apple and Google.

3 42. On information and belief, Defendants generate the majority of the
4 Game's revenue through the publishing, distribution and monetization of the Game
5 through contractual relationships with California entities, Apple and Google.

6 43. Venue is proper in this court because at all relevant times Mr. Molloy
7 resided in the County of Los Angeles, California and the claims asserted in this
8 complaint arise out of acts, transactions, and conduct that occurred in whole or in
9 part within the County of Los Angeles, California.

10 **FACTS**

11 44. The proliferation of internet-connected mobile devices has led to the
12 growth of what are known in the industry as "free-to-play" videogames. The term
13 is a misnomer. It refers to a model by which the initial download of the game is
14 free, but companies reap huge profits by selling thousands of "in-app" items that
15 start at \$0.99 but can quickly escalate to hundreds or even thousands of dollars.

16 45. The in-app purchase model has become particularly attractive to
17 developers of games of chance (e.g., poker, blackjack, and slot machine mobile
18 videogames, amongst others), because it allows them to generate huge profits. In
19 2022, the global social casino game market reached \$6.83 billion and is projected
20 to grow to \$8.7 billion in 2026.¹

22
23 ¹ *Global Social Casino Game Market Report 2022-2026 Featuring Caesars*
24 *Entertainment, Aristocrat Leisure, Zynga, Playtika, Scientific Game Corp and*
25 *DoubleU Game*, Research and Markets (April 26, 2022), available at:
26 <https://www.globenewswire.com/en/news-release/2022/04/26/2428795/28124/en/Global-Social-Casino-Game-Market-Report-2022-2026-Featuring-Caesars-Entertainment-Aristocrat-Leisure-Zynga-Playtika-Scientific-Game-Corp-and-DoubleU-Game.html> (last accessed February 6, 2023).

1 46. Academics have also studied the socioeconomic effect games that rely
2 on in-app purchases have on consumers. In one study, the authors compiled several
3 sources analyzing casino Game and stated that: “[Researchers] found that casino
4 gamers share many similar sociodemographic characteristics (e.g., employment,
5 education, income) with online gamblers. Given these similarities, it is perhaps not
6 surprising that a strong predictor of online gambling is engagement in casino
7 Game. Putting a dark line under these findings, over half (58.3%) of disordered
8 gamblers who were seeking treatment stated that social casino Game were their
9 first experiences with gambling...According to [another study], the purchase of
10 virtual credits or virtual items makes the activity of casino gaming more similar to
11 gambling. Thus, micro-transactions may be a crucial predictor in the migration to
12 online gambling, as these players have now crossed a line by paying to engage in
13 these activities. Although, only 1–5% of casino gamers make micro-transactions,
14 those who purchase virtual credits spend an average of \$78. Despite the limited
15 numbers of social casino gamers purchasing virtual credits, revenues from micro-
16 transactions account for 60% of all casino gaming revenue. Thus, a significant
17 amount of revenue is based on players’ desire to purchase virtual credits above and
18 beyond what is provided to the player in seed credits.” Hyoun S. Kim, Michael J.
19 A. Wohl, et al., *Do Social Casino Gamers Migrate to Online Gambling? An*
20 *Assessment of Migration Rate and Potential Predictors, Journal of gambling*
21 *studies / co-sponsored by the National Council on Problem Gambling and Institute*
22 *for the Study of Gambling and Commercial Gaming* (Nov. 14, 2014), available at
23 <http://link.springer.com/content/pdf/10.1007%2Fs10899-014-9511-0.pdf> (citations
24 omitted).

25 47. Many of the players of these social casino games likely have
26 psychological addictions to playing. See August 1, 2018 letter from Natasha Dow
27 Schüll, Ph.D. to Washington State Gambling Commission (available at
28

1 <https://www.wsgc.wa.gov/sites/default/files/public/news/big-fish/Dr.%20Schull%20Comments.pdf>).
2
3

Overview of Tycoon Casino

4 48. Tycoon Casino is a mobile application casino-style game developed
5 and distributed by Defendants. The game is available on iPhone and Android
6 devices through the Apple App Store and Google Play platforms, respectively.
7

8 49. Tycoon Casino was first released in 2018.
9

10 50. On information and belief, Tycoon Casino was first developed,
11 published and released by Triwin Games Co., Ltd. in 2018.
12

13 51. On information and belief, Triwin Inc. publishes and distributes
14 Tycoon Casino through the Apple App Store.
15

16 52. Tycoon Casino provides users with a variety of slot machines on their
17 mobile device in addition to other games of chance. Below is an example of one
18 such slot machine in Tycoon Casino:
19



20 53. In order to play the slot machines in Tycoon Casino, users must bet
21 virtual coins, as can be seen at the bottom left in the image above where it says
22 "TOTAL BET." The slot machines in Tycoon Casino require a minimum bet, such
23 that if a user's coin balance is below that minimum, the user cannot play the slot
24 machine. For example, in the slot machine depicted above, the minimum bet
25
26
27
28

1 allowed is 250,000 coins.

2 54. The slot machines in Tycoon Casino have all the same trappings as
3 real-world slot machines, including flashing graphics and sound effects. The slot
4 machines in Tycoon Casino are games of chance. The outcome of any given spin is
5 random and not dependent on the user's inputs or skills. Indeed, users can set the
6 slot machines to "auto-spin" for unlimited consecutive spins to reduce or eliminate
7 the need to interact with the game.

8 55. Users are encouraged by Tycoon Casino to make as large a bet as
9 possible through various user interfaces.

10 56. Users are allotted an amount of coins when they first download and
11 play the game. They may be awarded more coins through playing the slot machine
12 games in Tycoon Casino. When a user runs out of coins or attempts to spin a slot
13 machine for a bet amount exceeding their balance of virtual coins, they are
14 presented with one or more pop-up advertisements offering the sale of additional
15 virtual coins in exchange for real world currency and directed to the game's store.

16 57. The coins purchased by a user for real world money is used to extend
17 their ability to play the slot machines in Tycoon Casino. These purchased virtual
18 coins are identical to those bet in the slot machines and subject to the chance of
19 winning or losing of those slot machines.

20 58. When a user attempts to play a slot machine in Tycoon Casino but has
21 an insufficient quantity of coins, the user is presented with the following sequence
22 of screens:



28



20 59. Without obtaining more coins, the user is unable to continue playing.
21 The coins the user is repeatedly encouraged to purchase are used to extend his or
22 her gameplay.
23

24 60. After three screens encouraging a user to purchase more coins for real
25 world money, a fourth screen offers a user the chance to watch an advertisement to
26 receive a relatively small amount of coins. The advertisement is often for another
27 mobile casino game and lasts at least 30 seconds.

28 61. Purchasing coins to avoid viewing advertisements provides value to

1 the players by allowing for extended uninterrupted play. This value is measurable,
2 for example, but the amount of money Defendants receive from the advertiser.

3 62. Below is an image of the Tycoon Casino in-game store presented to a
4 new user:



14 Figure 1

15 63. The Shop purports to offer coins on “sale” with the user to receive
16 “200% MORE ON FIRST PURCHASE.” At each price point an offered coin
17 quantity is presented above a stricken coin quantity, communicating that the
18 stricken coin quantity is the ordinary, prevailing or standard quantity of coins for
19 each price point offered in Tycoon Casino. For example, the offer nearest the
20 bottom of Figure 1 has 200 million coins stricken with 600 million coins in large
21 and bold font above. A consumer would reasonably understand this to mean that
22 the normal, ordinary, or prevailing quantity of coins for \$1.99 offered by Tycoon
23 Casino is 200 million.

24 64. This first purchase sale shown in Figure 1 also includes stricken dollar
25 values on the right, with each quantity of coins being offered at \$1.99 and the
26 purported standard prices stricken alongside.

27 65. After a user makes a first purchase, the shop in Tycoon Casino does
28

1 not offer the stricken quantity of coins presented in Figure 1. Instead, the sales
2 continue, albeit at a purported 5% increase of coins instead of 200%:



10 Figure 2

11 66. Later that same day, a purported sale offering a 10% increase in coin
12 quantities is in the Tycoon Casino store:



19 Figure 3

20 67. The following day, a purported sale offering a 15% increase in coin
21 quantities is in the Tycoon Casino store:



28 Figure 4

1 68. The 15% sale shown in Figure 4 then persists for more than 3 months
2 and longer. The stricken chip quantities at each price points shown in Figures 1-4
3 are therefore fictitious, because they do not truthfully represent the ordinary,
4 prevailing or standard quantity of coins offered in Tycoon Casino.

5 69. On information and belief, Tycoon Casino does not offer the stricken
6 coin quantities for the listed prices shown in Figure 1-4 over a 90-day period, if
7 ever. To the extent the stricken chip quantities are ever offered for the listed prices
8 points, they are only offered for trivial periods of time. Based on investigation of
9 counsel over the past year, Tycoon Casino has never, for example, offered
10 200,000,000 coins for \$1.99 as the strikethroughs in Figures 1-4 suggest. Rather,
11 Tycoon Casino always offers more than 200,000,000 coins for \$1.99 and the
12 representation that 200,000,000 coins for \$1.99 is the ordinary or prevailing offer
13 for coins in Tycoon Casino is false. The same is true for the other coin values and
14 the other price points.

15 70. The advertising, pricing and quantity of coins in the Game is within
16 Defendants' knowledge and control.

17 71. Defendants had actual knowledge that the false strikethrough ads and
18 false limited time sales contained false or misleading misrepresentations as to their
19 prior values and as to their duration. Defendants designed and promoted these
20 advertisements while having actual knowledge that these quantitative
21 representations of sale values were false.

22 72. Defendants promoted these advertisements to create a false sense of
23 urgency in its players to induce those players into purchasing the coin bundles.
24 Defendants did so while knowing that the bundles contained quantitative
25 misrepresentations with respect to the comparative value of the coin quantities
26 displayed.

27 73. The amount of coins included in a bundle and its comparative value to

1 the stated standard quantity of coins offered at the same price is a material
2 consideration when a player decides whether to purchase a bundle.

3 74. These pricing and advertising practices reflecting high-pressure fake
4 sales are patently deceptive. They are intended to mislead customers into believing
5 that they are getting a bargain by buying virtual coins on sale and at a substantial
6 and deep discount.

7 **Plaintiff's Experience with Tycoon Casino**

8 75. Mr. Molloy found Tycoon Casino in the Apple App Store. In the
9 absence of any disclaimers or warnings to the contrary, he reasonably believed
10 Tycoon Casino complied with the law. Had Mr. Molloy known that Tycoon Casino
11 was engaged in illegal gambling, he would not have downloaded and began
12 playing it.

13 76. On or about December 2021, Mr. Molloy entered the Tycoon Casino
14 shop, and saw a presentation the same or substantially similar to that depicted in
15 Figure 1. Mr. Molloy reasonably understood that the stricken coin quantities shown
16 in the shop were the ordinary, normal and prevailing quantity of coins offered by
17 Tycoon Casino to its users at each price point shown.

18 77. Mr. Molloy purchased his first coin pack from the Tycoon Casino
19 store priced at \$1.99 on or around January 6, 2022.

20 78. Mr. Molloy's reasonable understanding that the stricken coin
21 quantities were the ordinary, prevailing or standard quantity of coins offered in
22 Tycoon Casino was a material factors in his decision to make his in-game
23 purchases. Mr. Molloy reasonably relied on this understanding in making his
24 purchase decision, a decision he would not have made had he known the stricken
25 coin quantities were fictitious.

26 79. Mr. Molloy continued to play Tycoon Casino until he lost all his
27 coins, at which time he was again prompted to purchase more coins purportedly on

1 sale. Mr. Molloy purchased two additional coins packs priced at \$4.99 on or about
2 February 12, 2022 to continue playing the Game's slot machines.

3 **The Games Violate California Gambling Laws**

4 80. The Games violate various California gambling laws, including
5 California Penal Code §330b, which prohibits slot machines.

6 81. California courts have observed that the plain text of this statute sets
7 forth three key elements: payment, chance, and prize. *See People ex rel. Green v.*
8 *Grewal*, 61 Cal.4th 544, 564, 189 Cal.Rptr.3d 686, 699, 352 P.3d 275, 286 (2015)
9 (quoting *Trinkle v. Stroh*, 60 Cal.App.4th 771, 782, 70 Cal.Rptr.2d 661, 667
10 (1997). First, the machine or device must be activated by “the insertion of money
11 or [some] other object.” *Trinkle v. Cal. State Lottery*, 105 Cal.App.4th 1401, 1410,
12 129 Cal.Rptr.2d 904, 910 (2003). Second, “the operation of the machine [must be]
13 unpredictable and governed by chance.” *Id.* Third, “by reason of the chance
14 operation of the machine, the user may become entitled to receive a thing of
15 value.” *Id.*

16 82. Virtual currency in a mobile game, purchased with real money, has
17 been found to be the insertion of money or some other object under §330b. *Soto v.*
18 *Sky Union, LLC*, 159 F.Supp.3d 871, 878-89 (N.D. Ill. 2016) (“This argument
19 disregards the plain language of section 330b(d), which provides that in addition to
20 machines or devices that require the insertion of money or coins, the term ‘slot
21 machine or device’ includes devices that may be operated ‘by any other means.’
22 Cal. Penal Code § 330b(d). Moreover, it would make little sense to read the broad
23 language of section 330b(d) to capture game operated by insertion of purchased
24 physical tokens while excluding game operated by insertion of purchased virtual
25 gems. For the purpose of determining whether Castle Clash is functionally a slot
26 machine when players engage in Rolls, it does not matter that gems are imaginary
27 currency.”).

1 83. Defendants manufacture, repair, own, rent, lease and give away the
2 slot machines in the Game. Defendants develop the software for the Game.
3 Defendants provide updates to the Game's software to fix bugs and otherwise
4 update the Game's slot machines. Defendants offers the Game for free through iOS
5 and Android mobile storefronts. Defendants own the Game. Defendants provide
6 the software for the Game to Apple and Google for players to download on their
7 mobile devices.

8 84. On information and belief, Defendants made or permitted the making
9 of agreements with other people regarding the Game, including Apple, Google and
10 players of the Game, by which users of the Game's slot machines, as a result of the
11 element of hazard or chance or other unpredictable outcome, may become entitled
12 to receive credit, allowance, or other thing of value or additional chance or right to
13 use the Game's slot machines.

14 85. The outcomes of the slot machines in the Game are the result of the
15 element of chance. Depending on the outcome of a slot machine spin in the Game,
16 a user may receive or lose virtual coins. That outcome is random and not
17 determined by the player's skill.

18 86. Virtual coins in the Game are a credit, allowance or other thing of
19 value or an additional chance or right to use the slot machines in the Game.

20 87. On information and belief, the Game is not located upon or are being
21 transported by a vessel regularly operated and engaged in interstate or foreign
22 commerce.

23 88. On information and belief, Defendants do not conduct their business
24 activities with respect to the Game in accordance with the terms of a license issued
25 by a tribal gaming agency pursuant to the tribal-state gaming compacts entered into
26 in accordance with the Indian Gaming Regulatory Act (18 U.S.C. Sec. 1166 to
27 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.).

1 89. The software for the Game is an apparatus. The software for the Game
2 also modifies mobile phones devices, such as iPhones and Android devices, into
3 slot machines as defined by the California Penal Code.

4 90. The Game adapts mobile phones into a device for use in a way that, as
5 a result of the payment of money for virtual coins, the device is caused to be
6 operated by reason of an element of chance in which the user may receive or
7 become entitled to receive a thing of value or additional chance or right to use the
8 Game's slot machines.

9 91. The Game is an apparatus under §330b. Alternatively, mobile devices
10 operating the Game are a machine, device or apparatus under §330b. Alternatively,
11 mobile devices operating the Game together with servers are together a machine,
12 device or apparatus under §330b.

13 92. The software for the Game modifies mobile phones devices, such as
14 iPhones and Android devices, into slot machines as defined by the California Penal
15 Code.

16 93. The Game's software operating on a mobile device, such as an iPhone
17 or Android smartphone, is a machine, device or apparatus.

19 94. In order to download the Game onto their mobile devices, users must
20 interact with the hardware features of their mobile devices, including using the
21 touch screen and hard buttons to enter account information, password pin code and
22 other button sequences required to confirm and execute the download.

23 95. Further, in order to make purchases within the Game, users must
24 interact with the hardware elements of their phones, including the touchscreen and
25 hard buttons. Users must enter payment information into their mobile devices
26 using hardware features, including a keyboard. Users must also enter a password or
27 pin code, press buttons and provide other identifying information through their

1 phone's hardware elements, such as the keyboard, camera or fingerprint reader, in
2 order to purchase virtual coins from the Game.

3 96. The Game is downloaded onto users' devices through servers owned,
4 operated and/or controlled by Defendants. These servers have hardware
5 components. When a user plays the Games through their mobile device, servers
6 owned, operated and/or controlled by Defendants communicate with the user's
7 mobile device. That communication between the servers owned, operated and/or
8 controlled by Defendants and a user's mobile device takes place through hardware,
9 including routers, switches, cables, and cell phone towers. Communication with
10 the servers owned, operated or controlled by Defendants is required in order to
11 provide users with the slot machines in the Game, update and repair the slot
12 machines in the Game, complete purchases of virtual coins used to play the slot
13 machines in the Game and to record players' balance of virtual coins needed to
14 play the slot machines in the Game.

15 97. Users operate the Game through the hardware features of their mobile
16 device, including the touch screen.

17 98. The Game adapts mobile phones into a device for use in a way that, as
18 a result of the payment of money for virtual coins, the device is caused to be
19 operated by reason of an element of chance in which the user may receive or
20 become entitled to receive a thing of value or additional chance or right to use the
21 Game.

22 99. California Penal Code §319 provides: "A lottery is any scheme for the
23 disposal or distribution of property by chance, among persons who have paid or
24 promised to pay any valuable consideration for the chance of obtaining such
25 property or a portion of it, or for any share or any interest in such property, upon
26 any agreement, understanding, or expectation that it is to be distributed or disposed
27 of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by

1 whatever name the same may be known." The Game is an illegal lottery as defined
2 by California Penal Code 319. Cal. Penal Code §§319, 322, 323, 326.

3 100. The Game is a scheme for the disposal or distribution of property by
4 chance among persons who have paid valuable consideration for the chance of
5 obtaining such property. Specifically, players of the Game spend money to buy
6 virtual coins. The Game disposes of those virtual coins by chance.

7 101. The virtual coins in the Game are "property" under §319. Section 7 of
8 the Penal Code provides that "the word 'property' includes both real and personal
9 property" and "the words 'personal property' include money, goods, chattels, things
10 in action, and evidences of debt." These definitions are not exclusive of anything
11 else properly coming within the terms defined. "A thing in action is a right to
12 recover money or other personal property by a judicial proceeding." Civil Code,
13 §953. "Property" is further defined in the Civil Code as a "thing of which there
14 may be ownership." Civil Code, §654. There may be ownership, among other
15 things, "of all obligations." Civil Code, §655. "An obligation is a legal duty by
16 which a person is bound to do or not to do a certain thing." Civ. Code §1427. An
17 obligation may arise from contract. Civ. Code §1428.

18 102. Defendants' duty as the operators of the Game is to permit users to
19 play further games in exchange for virtual coins. This is an obligation arising from
20 contract and the right of the player in the matter is personal property and a thing in
21 action. Cal. Civ. Code §663, §953.

22 103. On information and belief, Defendants receives money, directly or
23 indirectly, from the Game.

24 104. The Ninth Circuit has found that virtual coins used to play mobile
25 casino games similar to those in the Games constitute a thing of value under
26 Washington's gambling law. *Kater v. Churchill Downs Inc.*, 886 F.3d 784, 787
27 (9th Cir. 2018). California courts have held that a reward of extended play by a

1 video game for winning is a thing of value within the meaning of the Penal Code
2 definition. *See Merandette v. City & Cty. of San Francisco*, 88 Cal.App.3d 105,
3 114, 151 Cal.Rptr. 580, 586 (1979).

4 105. To the extent the Game operating on mobile devices in connection to
5 servers is not an illegal slot machines or that the Game does not include an illegal
6 lottery, the Game violates California Penal Code §337j as unlicensed controlled
7 games. California Penal Code § 337j(a) provides:

8 (a) It is unlawful for any person, as owner, lessee, or employee, whether
9 for hire or not, either solely or in conjunction with others, to do any of
10 the following without having first procured and thereafter maintained
11 in effect all federal, state, and local licenses required by law:

12 (1) To deal, operate, carry on, conduct, maintain, or expose for play in
13 this state any controlled game.

14 (2) To receive, directly or indirectly, any compensation or reward or
15 any percentage or share of the revenue, for keeping, running, or
16 carrying on any controlled game.

17 (3) To manufacture, distribute, or repair any gambling equipment
18 within the boundaries of this state, or to receive, directly or indirectly,
19 any compensation or reward for the manufacture, distribution, or repair
20 of any gambling equipment within the boundaries of this state.

21 106. On information and belief, Defendants have not procured and
22 thereafter maintained in effect all federal, state, and local licenses required by law
23 to operate a controlled game.

24 107. Defendants operates, carries on, conducts, maintains and exposes for
25 play in California a controlled game through the Game. Defendants receives,
26 directly or indirectly, compensation or reward of the revenue for keeping, running
27 and carrying on the Game. Defendants manufacture, distribute and repair the Game

1 within the boundaries of California.

2 108. California Penal Code §337j(e)(1) states that "[a]s used in this section,
3 'controlled game' means any poker or Pai Gow game, and any other game played
4 with cards or tiles, or both, and approved by the Department of Justice, and any
5 game of chance, including any gambling device, played for currency, check, credit,
6 or any other thing of value that is not prohibited and made unlawful by statute or
7 local ordinance." *Id.* (emphasis added).

8 109. To the extent the Game operating on mobile devices is not illegal
9 under California's Penal Code (including §330b and §319), the Game is a
10 controlled game under §337j(e)(1), because they are a game of chance played for
11 credit or a thing of value not prohibited and made unlawful by statute or local
12 ordinance.

13 110. The virtual coins in the Game are a credit to continue playing the slot
14 machines. The virtual coins in the Game are also a thing of value as held in *Kater*.

15 111. Certain courts have found that in-game purchases in free-to-play
16 mobile games that sell "loot boxes" are not things of value under California law,
17 because the loot boxes and the virtual items they contain merely enhance gameplay
18 and have no value outside of the game itself. *See, e.g. Soto v. Sky Union, LLC*, 159
19 F.Supp.3d 871 (N.D.Ill. 2016); *Mai v. Supercell OY*, Case No. 20-cv-05573-EJD,
20 Doc. 62 (N.D.Cal. Jan. 3, 2023); *Coffee v. Google LLC*, No. 20-cv-03901, 2022
21 WL 94986, at *9 (N.D. Cal. Jan. 10, 2022); *Taylor v. Apple, Inc.*, No. 20-cv-
22 03906-RS, 2022 WL 35601, at *2 (N.D. Cal. Jan. 4, 2022). In these cases, the
23 courts found the virtual items in the loot boxes were not things of value, because
24 they were not used to extend gameplay, but rather were mere enhancements to
25 game that were truly free to play in an unlimited way.

26 112. The virtual coins at issue here in the Game are distinguishable from
27 those cases, because the virtual coins in the Game are used for players to extend
28

1 their gameplay. In *Soto*, *Mai*, *Coffee* and *Taylor*, the underlying gameplay was
2 playable without any purchase. The purchases at issue were for randomized packs
3 of virtual goods (loot boxes) that were not needed to play the games, but merely
4 provided virtual goods that enhanced the gameplay. Further, those games were
5 ones of skill with the purported game of chance being a secondary feature.

6 113. In contrast, the Game here has a primary gameplay mechanic that is
7 itself a game of chance - slot machines. The purchase of virtual coins is used to
8 extend that gameplay, not merely to enhance it. For these reasons, the Ninth
9 Circuit *Kater* decision is more applicable than the District Court decisions in *Soto*,
10 *Mai*, *Coffee* and *Taylor*. Therefore, the virtual coins here are things of value and
11 provide an additional chance to play the Game's slot machines.

12 114. For these same reasons, the Game violates other California gambling
13 laws as set forth below.

14 115. In addition to being used to extend gameplay, the coins in the Game
15 are things of value under California law.

16 116. The Game is advertised and distributed through the App Store and
17 Play Store alongside other social casino games that do not violate California
18 gambling laws.

19 117. The Game's descriptions in these advertisements and storefronts do
20 not disclose that they violate California's or other state's gambling laws. Plaintiffs
21 and other consumers reasonably rely on this omission to believe that the Game
22 offers services that comply with the applicable laws. This belief is a material factor
23 in their decision to download and play the Game, as opposed to another social
24 casino game that does comply with gambling laws.

25 **The Game's Advertisements Violate The Law**

26 118. Defendants' advertising of virtual coins in the Game violates 16 CFR
27 §233.1(a) because the stricken deals displayed are not "actual, bona fide price at

1 which the article was offered to the public on a regular basis for a reasonably
2 substantial period of time.” Rather, the stricken coin values in the purported sale
3 offered in the Game’s store are “fictitious.” The false strikethrough ads promote a
4 false bargain where “the purchaser is not receiving the unusual value he expects.”

5 119. These advertisements are also violative of Cal. Bus. & Prof. Code
6 §17501, because the stricken coin values and dollar amounts were not “the
7 prevailing market price … within three months next immediately preceding the
8 publication of the advertisement.” Nor do the sale offers “clearly, exactly and
9 conspicuously state[] in the advertisement” when such former prices were
10 prevailing.

11 120. The effectiveness of Defendants’ deceitful advertising scheme is
12 supported by longstanding scholarly research. In the seminal article entitled
13 *Comparative Price Advertising: Informative or Deceptive?* (cited in *Hinojos v.*
14 *Kohl’s Corp.*, 718 F.3d 1098, 1106 (9th Cir. 2013)), Professors Dhruv Grewal and
15 Larry D. Compeau write that, “[b]y creating an impression of savings, the presence
16 of a higher reference price enhances subjects’ perceived value and willingness to
17 buy the product.” Dhruv Grewal & Larry D. Compeau, *Comparative Price*
18 *Advertising: Informative or Deceptive?*, 11 J. Pub. Pol’y & Mktg. 52, 55 (Spring
19 1992). Thus, “empirical studies indicate that, as discount size increases,
20 consumers’ perceptions of value and their willingness to buy the product increase,
21 while their intention to search for a lower price decreases.” *Id.* at 56 (emphasis
22 added). For this reason, the Ninth Circuit in *Hinojos* held that a plaintiff making a
23 claim of deceptive pricing (strikingly similar to the claim at issue here) had
24 standing to pursue his claim against the defendant retailer. In doing so, the Court
25 observed that “[m]isinformation about a product’s ‘normal’ price is . . . significant
26 to many consumers in the same way as a false product label would be.” *Hinojos*,
27 718 F.3d at 1106.

1 121. Professors Compeau and Grewal reached similar conclusions in a
2 2002 article: “decades of research support the conclusion that advertised reference
3 prices do indeed enhance consumers’ perceptions of the value of the deal.” Dhruv
4 Grewal & Larry D. Compeau, *Comparative Price Advertising: Believe It Or Not*, J.
5 of Consumer Affairs, Vol. 36, No. 2, at 287 (Winter 2002). The professors also
6 found that “[c]onsumers are influenced by comparison prices even when the stated
7 reference prices are implausibly high.” *Id.* (emphasis added).

8 122. In another scholarly publication, Professors Joan Lindsey-Mullikin
9 and Ross D. Petty concluded that “[r]eference price ads strongly influence
10 consumer perceptions of value Consumers often make purchases not based on
11 price but because a retailer assures them that a deal is a good bargain. This occurs
12 when . . . the retailer highlights the relative savings compared with the prices of
13 competitors . . . [T]hese bargain assurances (BAs) change consumers’ purchasing
14 behavior and may deceive consumers.” Joan Lindsey-Mullikin & Ross D. Petty,
15 *Marketing Tactics Discouraging Price Search: Deception and Competition*, 64 J.
16 of Bus. Research 67 (January 2011).

17 123. Similarly, according to Professors Praveen K. Kopalle and Joan
18 Lindsey-Mullikin, “research has shown that retailer-supplied reference prices
19 clearly enhance buyers’ perceptions of value” and “have a significant impact on
20 consumer purchasing decisions.” Praveen K. Kopalle & Joan Lindsey-Mullikin,
21 *The Impact of External Reference Price On Consumer Price Expectations*, 79 J. of
22 Retailing 225 (2003).

24 124. The results of a 1990 study by Professors Jerry B. Gotlieb and Cyndy
25 Thomas Fitzgerald, came to the conclusion that “reference prices are important
26 cues consumers use when making the decision concerning how much they are
27 willing to pay for the product.” Jerry B. Gotlieb & Cyndy Thomas Fitzgerald, *An*
28 *Investigation Into the Effects of Advertised Reference Prices On the Price*

1 *Consumers Are Willing To Pay For the Product*, 6 J. of App'd Bus. Res. 1 (1990).

2 This study also concluded that “consumers are likely to be misled into a
3 willingness to pay a higher price for a product simply because the product has a
4 higher reference price.” *Id.*

5 125. The unmistakable inference to be drawn from this research and the
6 Ninth Circuit’s opinion in *Hinojos* is that the deceptive advertising through the use
7 of false references employed here by Defendants is intended to, and does in fact,
8 influence customer behavior—as it did Plaintiffs’ purchasing decisions here—by
9 artificially inflating customer perceptions of a given item’s value and causing
10 customers to spend money they otherwise would not have, purchase items they
11 otherwise would not have, and/or spend more money than they otherwise would
12 have absent the deceptive advertising.

13 126. On information and belief, the Game and the false advertising
14 presented to new users are designed to trap players in what is referred to in
15 academia as a “compulsion loop.” A compulsion loop is defined as habitual
16 behavior that a human will repeat to gain a neurochemical reward: a feeling of
17 pleasure and/or a relief from pain. Not doing the behavior causes discomfort.

18 *Compulsion Loops: Compulsive Behavior As Mass Media* by Adam Crowe and
19 Richard Buchanon (available at

20 <https://www.slideshare.net/adamcrowe/compulsion-loops#btnNext>).

21 127. On information and belief, mobile games such as Tycoon Casino
22 maximize their profits by inducing players to enter into a compulsion loop. The
23 Game here engages in misleading value and price comparison advertising to induce
24 players into entering a compulsion loop of spending early in their interaction with
25 the Game.

26 128. On information and belief, once games such as Tycoon Casino are
27 successful at deceiving users into believing they are receiving outsized values,

1 those users are more likely to continue maintaining that belief despite evidence to
2 the contrary. Man-Pui Sally Chan, et al, *Debunking: A Meta-Analysis of the*
3 *Psychological Efficacy of Messages Countering Misinformation*, 28 Psychol. Sci.
4 1531, 1531 (2017), <https://cite.law/U5QS-2NF4> (meta-analysis focusing on “false
5 beliefs … [that] occur when the audience initially believes misinformation and that
6 misinformation persists or continues to exert psychological influence after it has
7 been rebutted”).

8 129. Another cognitive bias exploited by the Game is known as “sunk
9 cost” bias. Sunk cost bias describes a decision-making heuristic where an
10 individual escalates his or her commitment to a previously chosen, but
11 unsuccessful course of action to justify the prior “investments” in purchasing
12 coins. Thus, by inducing players into making purchases in the Game through
13 deceptive advertisements, Defendants creates a higher likelihood that those players
14 will be committed to the Game and continue spending money in the Game.

15 130. A phenomenon known as “chasing” (continuing to gamble to recoup
16 losses) is “one of the central characteristics of pathological gamblers.” Chasing is
17 “widely regarded as a defining feature in disordered gambling,” is “the most
18 commonly endorsed item in screening tools for disordered gambling,” and its
19 presence “establishes and maintains a downward spiral of negative consequences
20 for the gambler’s finances, relationships, and mental well-being.” Ke Zhang and
21 Luke Clark, *Loss-chasing in gambling behaviour: neurocognitive and behavioural*
22 *economic perspectives*, Current Opinion in Behavioral Sciences, 31:1-7 (Feb.
23 2020). Therefore, by inducing players into making early purchases in the Game
24 through misleading sale advertisements, the Game increases impact of its gambling
25 mechanics to push players into an addictive “chasing” phenomenon.

26 131. Further, by creating a false sense of urgency in their shops’ sale
27 offers, the Game increases the likelihood that players will make an impulse

1 purchase.

2 **APPLICABLE LAW**

3 132. Mr. Molloy is a citizen and resident of Los Angeles County,
4 California. He downloaded and played Tycoon Casino in California. He made
5 purchases from Tycoon Casino in California. His purchases were processed by
6 Apple, an entity headquartered in California.

7 133. California's substantive laws may be constitutionally applied to the
8 claims of Plaintiffs under the Due Process Clause, 14th Amend. §1, and the Full
9 Faith and Credit Clause, Art. IV §1 of the U.S. Constitution. California has
10 significant contacts, or significant aggregation of contacts, to the claims asserted
11 by Plaintiffs, thereby creating state interests that ensure that the choice of
12 California state law is not arbitrary or unfair.

13 134. The application of California laws is also appropriate under
14 California's choice of law rules because California has significant contacts to the
15 claims of Plaintiffs, and California has a greater interest in applying its laws here
16 than any other interested state.

17 135. California law may be used on a class-wide basis, because the
18 interests of other states do not outweigh California's interest in having its law
19 applied.

20 136. California has a unique interest in having its laws apply to this case,
21 including to non-residents. The Game is distributed primarily through the Apple
22 and Google mobile stores. These mobile stores are owned and operated by Apple
23 and Google, both companies having headquarters in California. On information
24 and belief, in distributing its Games through the Apple and Google stores,
25 Defendants entered into developer agreements with Apple and Google governing
26 the development and distribution of the Games. Those agreements, which
27 Defendant entered into for the purposes of distributing the Games in the United
28

States apply California law.

137. Consumers execute their transaction for the in-game coins in the Game with Apple and Google payment systems.

138. Plaintiffs and other consumers enter into end user agreements with Apple and Google, which require the application of California law.

CLASS ALLEGATIONS

139. Plaintiff brings this action on behalf of himself and all persons similarly situated pursuant to Rule 23(b)(2), 23(b)(3), and 23(c)(4) of the Federal Rules of Civil Procedure and seeks certification of the following class:

All individuals located within the United States who, during the applicable limitations period, made a purchase of virtual coins in Tycoon Casino using real-world currency.

140. The above-described class of persons shall hereafter be referred to as the “Class.” The following people are excluded from the Class: (1) any Judge or Magistrate Judge presiding over this action and members of their families; (2) Defendant, Defendants’ subsidiaries, parents, successors, predecessors, and any entity in which the Defendants or their parents have a controlling interest and their current or former employees, officers and directors; (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff’s counsel and Defendants’ counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

141. In the alternative, Plaintiff seeks certification of the following class pursuant to Rule 23(b)(2), 23(b)(3), and 23(c)(4) of the Federal Rules of Civil Procedure:

1 All individuals located within the State of California who, during
2 the applicable limitations period, made a purchase of virtual coins
3 in Tycoon Casino using real-world currency.

4 142. The above-described class of persons shall hereafter be referred to as
5 the “California Class.” The following people are excluded from the Class: (1) any
6 Judge or Magistrate Judge presiding over this action and members of their
7 families; (2) Defendants, Defendants’ subsidiaries, parents, successors,
8 predecessors, and any entity in which the Defendants or their parents have a
9 controlling interest and their current or former employees, officers and directors;
10 (3) persons who properly execute and file a timely request for exclusion from the
11 Class; (4) persons whose claims in this matter have been finally adjudicated on the
12 merits or otherwise released; (5) Plaintiff’s counsel and Defendants’ counsel; and
13 (6) the legal representatives, successors, and assigns of any such excluded persons.

143. The Class and California Class are collectively referred to herein as
15 “Classes.” Plaintiffs reserve the right to expand, limit, modify, or amend the class
16 definitions stated above, including the addition of one or more subclasses, in
17 connection with his motion for class certification, or at any other time, based upon,
18 among other things, changing circumstances, or new facts obtained during
19 discovery.

144. This case is appropriate for class treatment because Plaintiffs can
21 prove the elements of her claims on a class-wide basis using the same evidence as
22 would be used to prove those elements in individual actions alleging the same
23 claims.

145. **Adequacy.** Plaintiffs will fairly and adequately represent and protect
25 the interests of the other members of the Classes. Plaintiffs have retained counsel
26 with substantial experience in prosecuting complex litigation and class actions.
27 Plaintiffs and their counsel are committed to vigorously prosecuting this action on
28

1 behalf of the other members of the Classes, and have the financial resources to do
2 so. Neither Plaintiffs nor their counsel have any interest adverse to those of the
3 other members of the Classes.

4 **146. Numerosity.** The members of the Classes are so numerous that
5 joinder of all members would be unfeasible and not practicable. The membership
6 of the Classes is unknown to Plaintiffs at this time; however, it is estimated the
7 Classes number in the hundreds, if not thousands. The identity of such membership
8 is readily ascertainable via inspection of Defendant's or third-party books and
9 records or other approved methods. Similarly, Members of the Classes may be
10 notified of the pendency of this action by mail, email, internet postings, social
11 media, publications and/or in-game messaging.

12 **147. Common Questions of Law or Fact:** There are common questions of
13 law and fact as to Plaintiffs and all other similarly situated persons, which
14 predominate over questions affecting only individual class members, including,
15 without limitation:

- 16 a. Whether the Game violates California's gambling laws;
- 17 b. Whether Defendants engaged in the conduct alleged in the Complaint;
- 18 c. Whether Defendants violated the applicable statutes alleged herein;
- 19 d. Whether Defendants designed, advertised, marketed, distributed, sold,
20 or otherwise placed the Game into the stream of commerce in the United States
21 and California;
- 22 e. Whether Defendants engaged in conduct directed to the State of
23 California;
- 24 f. Whether the Game's presentation of stricken values in its advertising
25 of in-game purchases are misleading to a reasonable consumer;
- 26 g. Whether Plaintiff and members of the Classes were injured and
27 harmed directly by the Game;

1 h. Whether Plaintiff and members of the Classes were injured and
2 harmed directly by the Game's false advertising;

3 i. Whether Plaintiff and members of the Classes are entitled to damages
4 due to Defendants' conduct as alleged in this Complaint, and if so, in what
5 amounts;

6 j. Whether Plaintiff and members of the Classes are entitled to equitable
7 relief, including, but not limited to, restitution or injunctive relief as requested in
8 this Complaint.

9 148. **Typicality:** Plaintiff's claims are typical of the claims of the other
10 members of the Classes because, among other things, Plaintiff and all members of
11 the Classes were comparably injured through Defendants' misconduct described
12 above. As alleged herein, Plaintiffs, like the members of the Classes, made
13 purchases they would not have otherwise made and were deprived of monies that
14 rightfully belonged to them by Defendants. Further, there are no defenses
15 available to Defendants that are unique to Plaintiffs.

16 149. **Superiority:** The nature of this action and the laws available to
17 Plaintiff and members of the Classes make the class action format a particularly
18 efficient and appropriate procedure to redress the violations alleged herein. If each
19 class member were required to file an individual lawsuit, Defendants would
20 necessarily gain an unconscionable advantage since it would be able to exploit and
21 overwhelm the limited resources of each individual plaintiff with its vastly superior
22 financial and legal resources. Moreover, the prosecution of separate actions by the
23 individual class members, even if possible, would create a substantial risk of
24 inconsistent or varying verdicts or adjudications with respect to the individual class
25 members against Defendants, and which would establish potentially incompatible
26 standards of conduct for Defendant and/or legal determinations with respect to
27 individual class members which would, as a practical matter, be dispositive of the
28 individual class members which would, as a practical matter, be dispositive of the

1 interest of the other class members not parties to adjudications or which would
2 substantially impair or impede the ability of the class members to protect their
3 interests. Further, the claims of the individual members of the Classes are not
4 sufficiently large to warrant vigorous individual prosecution considering all of the
5 concomitant costs and expenses attending thereto.

6 **FIRST CLAIM FOR RELIEF**

7 **Violation of California's Unfair Competition Law ("UCL")**
8 **Cal. Bus. & Profession Code §17200 *et seq.***
9 **Illegal Gambling Against**

10 150. Plaintiff incorporates by reference all allegations in this Complaint
11 and restates them as if fully set forth herein.

12 151. Plaintiff brings this claim for relief on behalf of himself and all
13 Classes.

14 152. The UCL defines unfair business competition to include any
15 "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive,
16 untrue or misleading" advertising. Cal. Bus. & Prof. Code §17200.

17 153. A business act or practice is "unlawful" under the UCL if it violates
18 any other law or regulation.

19 154. As a result of engaging in the conduct alleged in this Complaint,
20 Defendant has violated the UCL's proscription against engaging in "unlawful"
21 conduct by virtue of its violations of the following laws:

22 **(a) California's Gambling Control Act (Cal. Bus. & Prof. Code §§**
23 **19800, *et seq.*):** Sections 19801 and 19850 of the Gambling Control
24 Act provide that unless licensed, state law prohibits commercially
25 operated gambling facilities; that no new gambling establishment may
26 be opened except upon affirmative vote of the electors; that all
27 gambling operations and persons having significant involvement
28 therein shall be licensed, registered, and regulated; and that all persons

1 involved in dealing, operating, carrying on, conducting, maintaining
2 or exposing for play any gambling game shall apply for and obtain a
3 valid state gambling license. The Game and their coins constitute a
4 “gambling game” because they are a “controlled game,” which is “any
5 game of chance, including any gambling device...played for currency,
6 check, credit, or any other thing of value that is not prohibited and
7 made unlawful by statute or local ordinance.” Cal. Penal Code §
8 337j(1). As alleged herein, Defendant operates, carries on, conducts,
9 maintains, and exposes for play gambling activities. On information
10 and belief, Defendant has not applied for or obtained any state
11 gambling license, and therefore violates California’s Gambling
12 Control Act.

13 **(b) California Penal Code § 330a:** Titled “Possession or keeping of
14 slot or card machine or card dice,” section 330a declares that “[e]very
15 person, who has in his or her possession or under his or her
16 control...or who permits to be placed, maintained, or kept in any
17 room, space, inclosure, or building owned, leased, or occupied by him
18 or her, or under his or her management or control, any slot or card
19 machine, contrivance, appliance or mechanical device, upon the result
20 of action of which money or other valuable thing is staked or
21 hazarded, and which is operated, or played, by placing or depositing
22 therein any coins, checks, slugs, balls, or other articles or device, or in
23 any other manner and by means whereof, or as a result of the
24 operation of which any merchandise, money, representative or articles
25 of value, checks, or tokens, redeemable in or exchangeable for money
26 or any other thing of value, is won or lost, or taken from or obtained
27 from the machine, when the result of action or operation of the
28

1 machine, contrivance, appliance, or mechanical device is dependent
2 upon hazard or chance...is guilty of a misdemeanor.” Defendant
3 violates section 330a because as alleged, Defendant possesses or
4 permits illegal slot machines where tokens or things of value are won
5 or lost upon chance.

6 **(c) California Penal Code § 330b:** Titled “Possession or keeping of
7 slot machines or devices,” section 330b declares that “[i]t is unlawful
8 for any person to manufacture, repair, own, store, possess, sell, rent,
9 lease, let on shares, lend or give away, transport, or expose for sale or
10 lease, or to offer to repair, sell, rent, lease, let on shares, lend or give
11 away, or permit the operation, placement, maintenance, or keeping of,
12 in any place, room, space, or building owned, leased, or occupied,
13 managed, or controlled by that person, any slot machine or device, as
14 defined in this section.” It is also “unlawful for any person to make or
15 permit the making of an agreement with another person regarding any
16 slot machine or device, by which the user of the slot machine or
17 device, as a result of the element of hazard or chance or other
18 unpredictable outcome, may become entitled to receive money, credit,
19 allowance, or other thing of value or additional chance or right to use
20 the slot machine or device...” As alleged, Defendant makes, repairs,
21 owns and gives away the Games’ slot machines. Further, as alleged,
22 Defendant has made agreements with its subsidiaries, Apple, Google,
23 Plaintiffs, members of the Classes and others regarding slot machines
24 or devices and permits the operation, placement, maintenance, or
25 keeping of a slot machine or device as defined by Penal Code §
26 330b(d).

27 **(d) California Penal Code §§ 330.1 et seq.:** Titled “Manufacture,
28

1 possession, or disposition of slot machines or device,” section
2 330.1(a) declares that “Every person who manufactures, owns, stores,
3 keeps, possesses, sells, rents, leases, lets on shares, lends or gives
4 away, transports, or exposes for sale or lease, or offers to sell, rent,
5 lease, let on shares, lend or give away or who permits the operation of
6 or permits to be placed, maintained, used, or kept in any room, space,
7 or building owned, leased, or occupied by him or her or under his or
8 her management or control, any slot machine or device as hereinafter
9 defined, and every person who makes or permits to be made with any
10 person any agreement with reference to any slot machine or device as
11 hereinafter defined, pursuant to which agreement the user thereof, as a
12 result of any element of hazard or chance, may become entitled to
13 receive anything of value or additional chance or right to use that slot
14 machine or device, or to receive any check, slug, token, or
15 memorandum, whether of value or otherwise, entitling the holder to
16 receive anything of value, is guilty of a misdemeanor.” Defendant
17 violates section 330.1 because as alleged, Defendant has made
18 agreements with others regarding slot machines or devices, or
19 otherwise possess or permit illegal slot machines or devices where
20 things of value are won as a result of chance “irrespective of whether
21 it may, apart from any element of hazard or chance, also sell, deliver,
22 or present some...entertainment, or other thing of value” (Cal. Penal
23 Code § 330.1(f)). The virtual coins that may be won by paying to play
24 the slot machines in the Games are a “token” or “thing of value” as
25 used in section 330.1 and as defined by section 330.2.

26
27 **(e) California Penal Code § 337j(a)(1):** By “operat[ing], carry[ing]
28 on, conduct[ing], maintain[ing], or expos[ing] for play” unlicensed

gambling in this state, Defendant violates Penal Code § 337j(a)(1).

(f) California Penal Code § 337j(a)(2): By “receiv[ing], directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game,” Defendant violates Penal Code § 337j(a)(2).

(g) California Penal Code § 337j(a)(3): Through the “manufacture, distribut[ion], or repair [of] any gambling equipment within the boundaries of this state” or “receiv[ing], directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state” Defendant violates Penal Code § 337j(a)(3).

(h) California Penal Code §319: “A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or any interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.” The Games are illegal lotteries as defined by California Penal Code 319. Cal. Penal Code §§319, 322, 323, 326.

155. Defendants have violated the “unlawful” prong under the UCL.

Defendants have violated the above-identified California Penal Code sections by making, selling, distributing, entering into agreements relating to and profiting from the Game. Defendants have further violated the above-identified California Penal Code sections through the sale of virtual coins in the Game.

156. Because Defendants' profiting from the sale of virtual coins in the

1 Game is illegal, Plaintiff and members of the Classes, who by definition purchased
2 such illegal virtual coins, have suffered a cognizable harm under UCL.
3 *Debernardis v. IQ Formulations, LLC*, 942 F.3d 1076, 1086 (11th Cir. 2019);
4 *Allergan U.S. v. Imprimis Pharm., Inc.*, 2019 U.S. Dist. LEXIS 163228, at *27 n.9
5 (C.D. Cal. Mar. 27, 2019); *Franz v. Beiersdorf, Inc.*, 745 F. App'x 47, 48 (9th Cir.
6 2018)).

7 157. A business act or practice is “unfair” under the UCL if the reasons,
8 justifications, and motives of the alleged wrongdoer are outweighed by the gravity
9 of the harm to the alleged victims. A business act or practice is “fraudulent” under
10 the UCL if it is likely to deceive members of the consuming public.

11 158. The sale of virtual coins in the Game is unfair and fraudulent under
12 the UCL, because Defendants failed to disclose to Plaintiff and members of the
13 Classes that the Game is illegal under California’s gambling laws. That omission
14 was a material factor in Plaintiff’s and class members’ decision to download, play
15 and expend money purchasing virtual coins in the Game. Had Plaintiff and
16 members of the Classes known that the Game violated California’s gambling laws,
17 they would not have began playing the Game or spending money in the Game.
18

19 159. As a result of these violations under each of the fraudulent, unfair, and
20 unlawful prongs of the UCL, Defendants has been unjustly enriched at the expense
21 of Plaintiff and the putative class members. Specifically, Defendants have been
22 unjustly enriched by obtaining revenues and profits that they would not otherwise
23 have obtained absent their false, misleading, and deceptive conduct.

24 160. Plaintiff enjoys playing mobile games and is continuously in the
25 market for lawful mobile games. As such, he is likely to continue to encounter
26 Defendants’ unlawful Game absent injunctive relief.

27 161. Through its unfair acts and practices, Defendants improperly obtained
28 money from Plaintiff and members of the Classes. As such, Plaintiff, on behalf of

1 himself and the putative Classes, requests that this Court enjoin Defendants from
2 continuing to violate the UCL, and/or from violating the UCL in the future.
3 Otherwise, Plaintiff and members of the Classes may be irreparably harmed and/or
4 denied an effective and complete remedy if such an order is not granted.

5 **SECOND CLAIM FOR RELIEF**

6 **Violation of California's Unfair Competition Law ("UCL")**

7 **Cal. Bus. & Profession Code §17200 *et seq.***

8 **Unlawful, Unfair and Fraudulent Advertising**

9 162. Plaintiff incorporates by reference all allegations in this Complaint
and restates them as if fully set forth herein.

10 163. Plaintiff brings this claim for relief on behalf of himself and all
11 Classes.

12 164. The UCL defines unfair business competition to include any
13 "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive,
14 untrue or misleading" advertising. Cal. Bus. & Prof. Code §17200.

15 165. A business act or practice is "unlawful" under the UCL if it violates
16 any other law or regulation.

17 166. A business act or practice is "unfair" under the UCL if the reasons,
18 justifications, and motives of the alleged wrongdoer are outweighed by the gravity
19 of the harm to the alleged victims. A business act or practice is "fraudulent" under
20 the UCL if it is likely to deceive members of the consuming public.

21 167. Defendants have violated the "unlawful" prong under the UCL and
22 has engaged in "unfair, deceptive, untrue or misleading" advertising.

23 168. The Federal Trade Commission Act prohibits "unfair or deceptive acts
24 or practices in or affecting commerce" (15 U.S.C. §45(a)(1)) and specifically
25 prohibits false advertisements. 15 U.S.C. §52(a). FTC Regulations describe false
26 former pricing schemes-similar to those used in the Game's sale offers in all
27 material respects-as deceptive practices that would violate the FTC Act.
28

1 169. 16 C.F.R. §233.1 states:

- 2 (a) One of the most commonly used forms of bargain
3 advertising is to offer a reduction from the advertiser's own
4 former price for an article. If the former price is the actual,
5 bona fide price at which the article was offered to the
6 public on a regular basis for a reasonably substantial period
7 of time, it provides a legitimate basis for the advertising of
8 a price comparison. Where the former price is genuine, the
9 bargain being advertised is a true one. If, on the other hand,
10 the former price being advertised is not bona fide but
11 fictitious - for example, where an artificial, inflated price
12 was established for the purpose of enabling the subsequent
13 offer of a large reduction - the "bargain" being advertised is
14 a false one; the purchaser is not receiving the unusual value
15 he expects. In such a case, the "reduced" price is, in reality,
16 probably just the seller's regular price.
- 17 (b) A former price is not necessarily fictitious merely because
18 no sales at the advertised price were made. The advertiser
19 should be especially careful, however, in such a case, that
20 the price is one at which the product was openly and
21 actively offered for sale, for a reasonably substantial period
22 of time, in the recent, regular course of his business,
23 honestly and in good faith - and, of course, not for the
24 purpose of establishing a fictitious higher price on which a
25 deceptive comparison might be based. And the advertiser
26 should scrupulously avoid any implication that a former
27 price is a selling, not an asking price (for example, by use
28 of such language as, "Formerly sold at \$____"), unless
substantial sales at that price were actually made.
- 29 (c) The following is an example of a price comparison based
30 on a fictitious former price. John Doe is a retailer of Brand
31 X fountain pens, which cost him \$5 each. His usual markup
32 is 50 percent over cost; that is, his regular retail price is
33 \$7.50. In order subsequently to offer an unusual "bargain",
34 Doe begins offering Brand X at \$10 per pen. He realizes
35 that he will be able to sell no, or very few, pens at this
36 inflated price. But he doesn't care, for he maintains that
37 price for only a few days. Then he "cuts" the price to its
38 usual level - \$7.50 - and advertises: "Terrific Bargain: X
39 Pens, Were \$10, Now Only \$7.50!" This is obviously a
40 false claim. The advertised "bargain" is not genuine.
- 41 (d) Other illustrations of fictitious price comparisons could be

1 given. An advertiser might use a price at which he never
2 offered the article at all; he might feature a price which was
3 not used in the regular course of business, or which was not
4 used in the recent past but at some remote period in the
5 past, without making disclosure of that fact; he might use a
6 price that was not openly offered to the public, or that was
7 not maintained for a reasonable length of time, but was
8 immediately reduced.

9 (e) If the former price is set forth in the advertisement, whether
10 accompanied or not by descriptive terminology such as
11 "Regularly," "Usually," "Formerly," etc., the advertiser
12 should make certain that the former price is not a fictitious
13 one. If the former price, or the amount or percentage of
14 reduction, is not stated in the advertisement, as when the ad
15 merely states, "Sale," the advertiser must take care that the
16 amount of reduction is not so insignificant as to be
17 meaningless. It should be sufficiently large that the
18 consumer, if he knew what it was, would believe that a
19 genuine bargain or saving was being offered. An advertiser
20 who claims that an item has been "Reduced to \$9.99,"
21 when the former price was \$10, is misleading the
22 consumer, who will understand the claim to mean that a
23 much greater, and not merely nominal, reduction was being
24 offered.

25 170. California law also prohibits false former pricing
26 schemes. Cal. Bus. Code. §17501 entitled "Value determinations;
27 Former price advertisements," states:

28 For the purpose of this article the worth or value of anything
1 advertised is the prevailing market price, wholesale if the offer
2 is at wholesale, retail if the offer is at retail, at the time of
3 publication of such advertisement in the locality wherein the
4 advertisement is published.

5 No price shall be advertised as a former price of any advertised
6 thing, unless the alleged former price was the prevailing
7 market price as above defined within three months next
8 immediately preceding the publication of the advertisement or
9 unless the date when the alleged former price did prevail is
10 clearly, exactly and conspicuously stated in the advertisement.

11 171. California's False Advertising Law also prohibits a business from
12 "[a]dvertising goods or services with intent not to sell them as advertised," Cal.
13

1 Civ. Code §1770(a)(9), and prohibits a business from “[m]aking false or
2 misleading statements of fact concerning reasons for, existence of, or amounts of
3 price reductions.” *Id.* §(a)(13).

4 172. The Game’s use of strikethrough graphics and comparative values
5 violate the unlawful prongs of the UCL, because they violate 16 C.F.R. §233.1,
6 Cal. Bus. Prof. Code §1750, Cal. Civ. Code §§1770(a)(9) and (a)(13).

7 173. Defendants also violated the “unfair” prong of the UCL by falsely
8 representing that its consumers received a more coins as compared to a referenced
9 “original” coin quantity shown in the Game’s store. In fact, Defendants displayed
10 to users a fictitious stricken reference coin quantity.

11 174. The gravity of the harm to Plaintiff and members of the Classes
12 resulting from these unfair acts and practices outweighs any conceivable reasons,
13 justifications, or motives that Defendants may have had for engaging in such
14 deceptive acts and practices.

15 175. Plaintiff and members of the Classes suffered cognizable harm as a
16 result of these unfair acts and practices. Plaintiff and members of the Classes
17 reasonably understood the strikethrough graphics in the Game described herein as
18 communicating the ordinary, normal, prevailing former value for virtual coins in
19 the Game. In reality, the stricken values were fictitious. Plaintiff and members of
20 the Classes reasonably relied on their understanding in their decision to make in-
21 game purchases in the Game. But for Defendants’ misleading and false advertising
22 and Plaintiff’s and class members’ reasonable reliance thereon, Plaintiff and
23 members of the Class would not have made some or all of their purchases in the
24 Game.

25 176. As a result of these violations under each of the fraudulent, unfair, and
26 unlawful prongs of the UCL, Defendants have been unjustly enriched at the
27 expense of Plaintiff and the Classes. Specifically, Defendants have been unjustly

1 enriched by obtaining revenues and profits that it would not otherwise have
2 obtained absent its false, misleading, and deceptive conduct.

3 177. Plaintiff enjoys playing mobile games and is continuously in the
4 market for lawful mobile games. As such, he is likely to continue to encounter
5 Defendants' unlawful Game absent injunctive relief.

6 178. Through its unfair acts and practices, Defendants improperly obtained
7 money from Plaintiff and members of the Classes. As such, Plaintiff, on behalf of
8 himself and the putative Classes, request that this Court cause Defendants to
9 restore this money to Plaintiff and the members of the Classes, and to enjoin
10 Defendants from continuing to violate the UCL, and/or from violating the UCL in
11 the future. Otherwise, Plaintiff and members of the Classes may be irreparably
12 harmed and/or denied an effective and complete remedy if such an order is not
13 granted.

14

15 **THIRD CLAIM FOR RELIEF**
16 **Violation of California False Advertising Law (“FAL”)**
17 **Cal. Business & Professional Code §17500 *et seq.***

18 179. Plaintiff incorporate by reference all allegations in this Complaint and
restates them as if fully set forth herein.

19 180. The FAL prohibits unfair, deceptive, untrue, or misleading
20 advertising, including, but not limited to, false statements as to worth, value, and
21 former price.

22 181. Furthermore, the FAL provides that: “No price shall be advertised as a
23 former price of any advertised thing, unless the alleged former price was the
24 prevailing market price as above defined within three months next immediately
25 preceding the publication of the advertisement or unless the date when the alleged
26 former price did prevail is clearly, exactly and conspicuously stated in the
27 advertisement.” Cal. Bus. & Prof. Code §17501.

1 182. The false strikethrough graphics in the Game's shops misrepresent the
2 existence of a sale whereby players can allegedly purchase more coins than they
3 normally could for the same price.

4 183. Plaintiff enjoys playing mobile games and is continuously in the
5 market for lawful mobile games. As such, he is likely to continue to encounter
6 Defendants' unlawful Game absent injunctive relief.

7 184. Through its unfair acts and practices, Defendants have improperly
8 obtained money from Plaintiff and members of the Classes. As such, Plaintiff, on
9 behalf of himself and the putative Classes, request that this Court cause Defendants
10 to restore this money to Plaintiff and the members of the Classes, and to enjoin
11 Defendants from continuing to violate the FAL, and/or from violating the FAL in
12 the future. Otherwise, Plaintiff and members of the Classes may be irreparably
13 harmed and/or denied an effective and complete remedy if such an order is no
14 granted.

15 **FIFTH CLAIM FOR RELIEF**

16 **Violation of the California Consumer Legal Remedies Act (“CLRA”)**
17 **Cal. Civ. Code. §1750 *et seq.***
18 **Illegal Gambling**

19 185. Plaintiff incorporates by reference all allegations in this Complaint
20 and restate them as if fully set forth herein.

21 186. Plaintiff and members of the Classes are consumers within the
22 meaning of Cal. Civ. Code §1761(d) and have engaged in a transaction within the
23 meaning of Cal. Civ. Code §§1761(e) and 1770.

24 187. Defendants are each a “person” within the meaning of Cal. Civ. Code
25 §§1761(c) and 1770 and sells “goods or services” within the meaning of Cal. Civ.
26 Code §§1761(b) and 1770.

27 188. The Game is a “service” within the meaning of Cal. Civ. Code.
28 §§1761(a) and (b). Specifically, the Game provides online gaming services. The

1 purchase of in-game coins for the Game is a transaction for accessing those
2 services. The purpose of the in-game coins is to access the gameplay services
3 offered by the Game and the purchase of in-game coins is at times necessary to
4 access those services.

5 189. By engaging in the conduct described herein, Defendants have
6 violated subdivision (a)(14) of California Civil Code §1770 by: “Representing that
7 a transaction confers or involves rights, remedies, or obligations that it does not
8 have or involve, or that are prohibited by law.” Under this provision, omissions are
9 actionable.

10 190. Defendants have advertised the Game while omitting that the Game
11 are engaged in illegal gambling.

12 191. By engaging in the conduct described herein, Defendant has also
13 violated subdivision (a)(26) of California Civil Code §1770 by “Advertising,
14 offering for sale, or selling a financial product that is illegal under state or federal
15 law....”

16 192. Defendants advertise the Game and their illegal financial products on
17 its website, through social media and through the App Store and Play Store.
18 Defendants also advertise, offer for sale and sell virtual coins in the Game that are
19 illegal financial products.

20 193. Defendants violated the CLRA by representing to or omitting from
21 Plaintiff and members of the Classes that the transactions involving virtual coins in
22 the Game confer or involve rights to potentially valuable prizes, when in fact these
23 transactions constitute unlawful gambling transactions that are prohibited by law,
24 foster compulsive and addictive behavior, and are a predatory form of duplicitously
25 profiting from others. These omissions are material because a reasonable consumer
26 would deem them important in determining how to act in the transaction at issue
27 and, if prohibited by law, should not have been permitted to purchase virtual coins.

1 Further, the omissions about virtual coins are misleading in light of other facts that
2 Defendants did disclose.

3 194. Defendants' violations of the CLRA proximately caused injury in fact
4 to Plaintiff and the members of the Classes.

5 195. Plaintiff and the members of the Classes transacted with the Game on
6 the belief that the transaction was lawful. Indeed, a reasonable consumer believes
7 in the lawfulness of his or her transactions.

8 196. Plaintiff enjoys playing mobile games and is continuously in the
9 market for lawful mobile games. As such, he is likely to continue to encounter
10 Defendants' unlawful Game absent injunctive relief.

11 197. Pursuant to Cal. Civ. Code § 1782(d), Plaintiff, individually and on
12 behalf of the other members of the Classes, seek a Court order enjoining the above-
13 described wrongful acts and practices of Defendants and attorneys' fees.

14 198. Plaintiff, individually and on behalf of the other members of the Class,
15 do not seek damages for this claim for relief.

17 **FIFTH CLAIM FOR RELIEF**
18 **Violation of the California Consumer Legal Remedies Act ("CLRA")**
19 **Cal. Civ. Code. §1750 *et seq.***
20 **False and Misleading Sales**

21 199. Plaintiff incorporates by reference all allegations in this Complaint
22 and restate them as if fully set forth herein.

23 200. Plaintiff and members of the Classes are consumers within the
24 meaning of Cal. Civ. Code §1761(d) and have engaged in a transaction within the
25 meaning of Cal. Civ. Code §§1761(e) and 1770.

26 201. Defendants are each a "person" within the meaning of Cal. Civ. Code
27 §§1761(c) and 1770 and sells "goods or services" within the meaning of Cal. Civ.
Code §§1761(b) and 1770.

28 202. The Game is a "service" within the meaning of Cal. Civ. Code.

1 §§1761(a) and (b). Specifically, Tycoon Casino each provide online gaming
2 services. The purchase of in-game coins for these Game is a transaction for
3 accessing those services. The purpose of the in-game coins is to access the
4 gameplay services offered by the Game and the purchase of in-game coins is
5 necessary at times to access those services.

203. Defendants have violated §1770(a)(13)'s proscription against making false or misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions by misrepresenting the existence of discounts for the purchase of gold coins via false strikethrough ads.

204. Plaintiff and the putative Classes suffered actual damages as a direct and proximate result of Defendants' actions, concealment, and/or omissions in the advertising, marketing, and promotion of its bait apps, in violation of the CLRA, as evidenced by the substantial sums Defendants has pocketed.

205. Plaintiff enjoys playing mobile games and is continuously in the market for lawful mobile games. As such, he is likely to continue to encounter Defendants' unlawful Game absent injunctive relief.

206. Plaintiff, on behalf of himself and the Classes, demand judgment against Defendants for injunctive relief and attorney's fees.

207. Plaintiff, individually and on behalf of the other members of the Classes, do not presently seek damages for this claim, but reserve the right to seek leave to amend pursuant to §1782(d) to add a claim for relief for damages.

SIXTH CLAIM FOR RELIEF

Fraud

208. Plaintiff incorporates by reference all allegations in this Complaint and restate them as if fully set forth herein.

209. Defendants advertised the Game to Plaintiff and members of the Classes and omitted that the Game violated California's gambling laws.

1 210. Defendants presented the Game publicly as free-to-play “social
2 casino” games and omitted that the Game provides illegal slot machines under
3 California.

4 211. These representations and omissions were false because they the
5 Game violates California’s gambling laws.

6 212. On information and belief, Defendants knew, actually or
7 constructively, that these representations and omissions were false following the
8 Ninth Circuit decision in *Kater*.

9 213. These representations and omissions were material to the decision of
10 Plaintiff and members of the Classes in downloading and playing the Game.

11 214. Plaintiff and members of the Classes reasonably relied on these
12 representations and omissions in deciding to download and play the Game.

13 215. Had Plaintiff and members of the Classes known the Game was
14 engaging in illegal gambling, they would not have downloaded and played the
15 Game.

16 216. Plaintiff and members of the Classes were harmed, because if they had
17 never downloaded and played the Game they would not have played the Game’s
18 illegal slot machines, been subjected to the Game’s false advertising, induced into
19 making purchases of virtual coins and lost those coins to the Game’s slot machines.

20 217. Defendants represented to Plaintiff and members of the Classes that
21 the stricken coin quantities represented the ordinary, normal and prevailing offer by
22 the Games.

23 218. These representations were false because the prevailing quantity of
24 coins was higher than represented by Defendants as a reference quantity.

25 219. Defendants knew these representations were false, because it had
26 knowledge of and control over the Game’s advertisements and offers for coins.

27 220. Defendants designed the graphical images of the advertisements in a
28

1 way that intentionally attracted Plaintiff and the members of the Classes to the
2 enticing but false claims regarding gold amounts.

3 221. Plaintiff and the putative Classes reasonably relied upon the claims
4 made in the advertisements in deciding to purchase the aforementioned coin
5 bundles.

6 222. Plaintiff and the putative Classes were harmed because, had Plaintiff
7 and class members known the claims were false, they would not have made some
8 or all of those purchases.

9 223. Plaintiff and class members' reliance on Defendants'
10 misrepresentations in its advertisements was a substantial factor in causing harm to
11 Plaintiff and the putative Classes.

12 224. Defendants' conduct has therefore caused and is causing immediate
13 and irreparable injury to Plaintiff and members of the Classes and will continue to
14 both damage Plaintiff and the Classes and deceive the public unless enjoined by
15 this Court.

16 225. Plaintiff enjoys playing mobile games and is continuously in the
17 market for lawful mobile games. As such, he is likely to continue to encounter
18 Defendants' unlawful Game absent injunctive relief.

19 226. Plaintiff, on behalf of himself and the Classes, demand judgment
20 against Defendant for damages, injunctive relief, restitution and attorney's fees.

22 **SEVENTH CLAIM FOR RELIEF**

23 **Negligent Misrepresentation**

24 227. Plaintiff incorporates by reference all allegations in this Complaint
25 and restate them as if fully set forth herein.

26 228. Defendants advertised the Games to Plaintiffs and members of the
27 Classes and omitted that the Game violated California's gambling laws.

28 229. Defendants presented the Game publicly as a free-to-play "social

1 “casino” game and omitted that the Game provided illegal slot machines under
2 California law.

3 230. These representations and omissions were false because the Game
4 violates California’s gambling laws.

5 231. Defendant had a duty to know and should have known that these
6 representations and omissions were false following the Ninth Circuit decision in
7 *Kater*.

8 232. These representations and omissions were material to the decision of
9 Plaintiff and members of the Classes in downloading and playing the Games.

10 233. Plaintiff and members of the Classes reasonably relied on these
11 representations and omissions in deciding to download and play the Game.

12 234. Had Plaintiff and members of the Classes known the Game was
13 engaging in illegal gambling, they would not have downloaded and played the
14 Game.

15 235. Plaintiff and members of the Classes were harmed, because if they had
16 never downloaded and played the Game they would not have played the Game’s
17 illegal slot machines, been subjected to the Game’s false advertising, induced into
18 making purchases of virtual coins and lost those coins to the Game’s slot machines.

19 236. Defendants represented to Plaintiff and members of the Classes when
20 they began playing the Game that the stricken coin quantities represented the
21 ordinary, normal and prevailing offer by the Game.

22 237. These representations were false because the prevailing quantity of
23 coins was higher than represented by Defendant as a reference quantity.

24 238. Defendants knew these representations were false, because it had
25 knowledge of and control over the Game’s advertisements and offers for coins.

26 239. Defendants designed the graphical images of the advertisements in a
27 way that intentionally attracted Plaintiff and the members of the Classes to the

1 enticing but false claims regarding gold amounts.

2 240. Plaintiff and the putative Classes reasonably relied upon the claims
3 made in the advertisements in deciding to purchase the aforementioned coin
4 bundles.

5 241. Plaintiff and the putative Classes were harmed because, had Plaintiff
6 and class members known the claims were false, they would not have made some
7 or all of those purchases.

8 242. Plaintiff and class members' reliance on Defendants'
9 misrepresentations in its advertisements was a substantial factor in causing harm to
10 Plaintiff and the putative Classes.

11 243. Defendants' conduct has therefore caused and is causing immediate
12 and irreparable injury to Plaintiff and members of the Classes and will continue to
13 both damage Plaintiff and the Classes and deceive the public unless enjoined by
14 this Court.

15 244. Plaintiff enjoys playing mobile games and is continuously in the
16 market for lawful mobile games. As such, he is likely to continue to encounter
17 Defendants' unlawful Game absent injunctive relief.

18 245. Plaintiff, on behalf of himself and the Classes, demand judgment
19 against Defendants for damages, injunctive relief, restitution and attorney's fees.

20 **PRAYER FOR RELIEF**

21 Plaintiff prays for relief and judgment against Defendants as follows:

- 22 A. Certifying the proposed Classes defined herein;
23 B. Appointing Plaintiff as Class Representatives;
24 C. Appointing counsel for Plaintiff as Class Counsel;
25 D. Declaring Defendants' conduct to be unlawful;
26 E. Awarding Plaintiff and members of the Classes compensatory damages and
27 actual damages in an amount to be determined by proof;
28

- 1 F. Awarding Plaintiff and members of the Classes actual and statutory
2 damages;
3 G. Disgorging Defendants of their unjust profits;
4 H. For punitive damages;
5 I. For civil penalties;
6 J. For declaratory and equitable relief, including restitution and disgorgement;
7 K. For an order enjoining Defendants from continuing to engage in the
8 wrongful acts and practices alleged herein;
9 L. Awarding Plaintiff the costs of prosecuting this action, including expert
10 witness fees;
11 M. Awarding Plaintiff reasonable attorney's fees and costs as allowable by law;
12 N. Awarding pre-judgment and post-judgment interest; and
13 O. Granting any other relief as this Court may deem just and proper.

14
15 DATED: June 2, 2023

THE RYAN LAW GROUP



16
17
18 Andrew T. Ryan
19 Attorney for Plaintiff

1 **JURY DEMAND**

2 Plaintiff hereby demands a jury trial on all issues and claims so triable.

3

4

5 DATED: June 2, 2023

6 THE RYAN LAW GROUP

7 

8

9 Andrew T. Ryan
Attorney for Plaintiff

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28